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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,772	03/30/2004	Mark L. Campbell	CAMPBL.0100	4988
7590	07/12/2007	Douglas W. Gilmore NOBLITT & GILMORE, LLC Suite 6000 4800 N. Scottsdale Road Scottsdale, AZ 85251	EXAMINER OLSON, MARGARET LINNEA	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 07/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/812,772	CAMPBELL ET AL.
	Examiner	Art Unit
	Margaret L. Olson	3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 April 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Janek (US 5,788,135). Janek discloses a container 20 with a lid portion 42 and a receiving portion 41 (figure 2) that engage together to form a containment volume (column 8, lines 22-24). The container is adapted for secure and substantial engagement with a surface 32 (column 6, lines 36-40). It may be positioned in a first and second orientation on that surface in a secure engagement (column 6, lines 1-6; figure 1; figure 2). The position in figure 2 allows the device to be securely engaged with latch 71 (column 9, line 59- column 10 line 6).

With respect to claim 2, the container has a pull-rod receiving portion that receives pull rod 45 that can be used to move the container from a first orientation to a second orientation (figure 2).

With respect to claim 3, the second orientation is approximately 90 degrees displaced from the first orientation, as the first orientation has the box resting on its base 47, and the second orientation has the mostly rectangular box resting approximately on

its side wall 49. The box may be attached to (figure 1; figure 2; column 9 line 48-column 10 line 6).

With respect to claim 4, a hasp 43 engages the lid 42 with the receiving portion 41 (column 8, lines 20-22).

With respect to claim 5, the containment volume is substantially unitary and molded to receive an article for containment (column 6, lines 26-30; column 4, lines 41-45).

With respect to claim 6, the receiving portion has wheels 44 to allow the container to be positioned and rested in a particular orientation (column 5, lines 63-67).

With respect to claim 7, the wheels 44 are a shock-absorbing element, since they are made of solid rubber (column 8, lines 48-51).

With respect to claim 8, the container rests on surface 32 which is provided with features 71 and 72 for positioning and resting said container in a particular orientation (column 5, lines 26-32; figure 2).

With respect to claim 9, features 71 and 72 are pegs.

With respect to claim 10, the container engages with surface 32 with tabs 73 and 73'.

With respect to claim 11, the surface is an extension of the chassis of a vehicle (figure 1).

With respect to claim 12, the first orientation is a transporting position (figure 1) and the second orientation is an unloading position (figure 2).

With respect to claim 13, Janek discloses a method of transporting articles securely that provides a container with a lid and a receiver that engage to form a containment volume and attaching that container to a surface that allows it to be positioned in a first an second orientation (column 4, lines 41-67).

With respect to claim 14, the pull rod 45 is used to move the container from one position to another (column 9, lines 57-59).

With respect to claim 15, the lid 42 is locked (column 4, lines 64-67) with a hasp 43.

With respect to claim 16, the container is positioned in an orientation with respect to surface 32 (figure 2; column 6, lines 1-4).

With respect to claim 17, the container is loaded with an article (column 5, lines 52-59).

With respect to claim 18, the container is engaged with surface 32 with tabs 73 and 73' (column 5, lines 33-39).

With respect to claim 19, the container apparatus 20 has a lid portion 42, a receiver portion 41 hinged and locked together (column 8, lines 17-22). A containment volume suitable for receiving objects is formed inside (column 6, lines 26-30; column 4, lines 41-45). The container securely engages with a surface 32 and may pivot from a first orientation on that surface to a second orientation approximately 90 degrees displaced (column 5, lines 26-32; figure 2). The position in figure 2 allows the device to be securely engaged with latch 71 (column 9, line 48-column 10 line 6). The engagement of the container with the surface includes a lock (column 5, lines 33-39).

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The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Janek which is capable of being used in the intended manner, i.e., to contain and transport a nuclear gauge device. (see M.P.E.P. 2111). Janek discloses the device as made from a "light metal such as aluminum" or "light weight but strong materials" which can be used to store and transport nuclear gauge devices (column 3, lines 3-4; column 5, line 22).

With respect to claim 20, the first orientation is a transporting position (figure 1) and the second orientation is an unloading position (figure 2).

Response to Arguments

3. Applicant's arguments filed 4/27/07 have been fully considered but they are not persuasive. The applicant argues that the two orientations in which the container may be engaged with a surface are not secure. The container is securely engaged with the surface in the orientation as shown in figure 1, and is also in secure engagement with the surface in the orientation shown in figure 2. Janek discloses that the container may be engaged to a lock at 71 (figure 2) when the container is in the second orientation (column 9 line 57-column 10 line 6). The applicant also argues that the container is not shown in Figure 2 in an orientation approximately 90 degrees displaced from the orientation of figure 1. The specification, drawings, and claims give no guidelines for how closely the angle of orientation must approximate 90 degrees. Giving the broadest reasonable interpretation of this claim, the examiner holds that figure 2 shows the

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container in an orientation approximately 90 degrees from the orientation shown in figure 1. The Janek reference discloses all the aspects of the claimed invention.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mlo


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SUPERVISORY PATENT EXAMINER